

JOHN L. LAKE, JR.

APRIL 11, 1884.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. VAN ALSTYNE, from the Committee on Claims, submitted the following

REPORT:

[To accompany bill H. R. 2331.]

The Committee on Claims, to whom was referred the bill (H. R. 2331) for the relief of John L. Lake, jr., respectfully report:

Claimant was during the years 1875 and 1876 sole or principal owner and proprietor of the newspaper known as the Times and Republican, published at Jackson, in the State of Mississippi, and is now the sole owner of any claim that may exist against the Government for publishing the advertisements hereinafter mentioned.

This newspaper, the Times and Republican, had, prior to the publication of the said advertisement herein stated, been selected and designated, under and pursuant to section 3823 of the Revised Statutes, by Edward McPherson, esq., then the Clerk of the House of Representatives, as one of the newspapers in said State of Mississippi in which advertisements of the several Departments of the Government should be published under said section and the laws relating thereto.

The said Clerk did duly notify each head of the several Executive Departments of his selection and designation of said paper as and for the purposes aforesaid.

Said McPherson, as such Clerk, and by virtue of the power and authority in him vested by said statute, did fix the rate of compensation to be paid for publishing such advertisements under authority of said law, at \$1 per square of eight lines of nonpareil type, which rate was unchanged and in force during the whole of said years 1875 and 1876.

In 1875 the Postmaster-General prepared and forwarded to said newspaper by reason of said selection, and the statute aforesaid, an advertisement for proposals for carrying the mails in said State, which advertisement was dated October 1, 1875, and contained two hundred squares of eight lines each, of nonpareil print. The price for the publication of this advertisement, as fixed by the said Clerk, was the sum of \$1,200.

At the time of forwarding said advertisement, the Postmaster-General assumed to determine and insisted the same should be published for the sum of \$523.12 for the entire publication for six weeks. Against this assumption the claimant protested promptly and continuously, but published said notice, as he was required to do by law.

In 1876 the Postmaster-General prepared and forwarded to said newspaper, for like reason, a further and other advertisement for like pur-

pose, dated May 20, 1876, which contained eighty squares of print. The price of the publication of this official paper as fixed by said Clerk was \$480.

At the time of sending this advertisement the Postmaster-General insisted the same should be published the full time for the sum of \$155.62, against which claimant protested, and has at all times demanded and insisted upon being paid the full sum of \$480.

These two allowances were finally paid to Lake, but were accepted by him only under protest, at the same time demanding the disallowed and unpaid balances.

Your committee are of the opinion that the attempt of the Postmaster-General to limit the price for publishing these advertisements was *ultra officii*—that his power did not extend beyond the preparation of his official advertisement, forwarding it to the newspaper, counting the squares, and determining that the advertisement had been duly published. He had no authority to change the price or compensation for publishing that had been fixed by the Clerk of the House of Representatives under and pursuant to the provisions of a law enacted for that purpose. To that act of the Clerk the Postmaster-General was in no sense connected, only as it *controlled* his official action.

The advertisements having been forwarded, and the same having been duly published, and due proof thereof having been presented to the Postmaster-General, it was his duty to audit, allow, and direct payment according to price fixed by said Clerk. This he did not do.

Your committee are of the opinion that Mr. Lake has a valid claim against the Government for the balance, \$1,001.26, unpaid, on account of said publications, and recommend the passage of the bill.

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